

## REMARKS

This Amendment After Final Rejection is submitted in response to the outstanding final Office Action, dated March 25, 2008. Claims 1 through 23 are presently pending in the above-identified patent application. In this response, Applicants propose to amend claims 1, 21, and 22. No additional fee is due.

This amendment is submitted pursuant to 37 CFR §1.116 and should be entered. The Amendment places all of the pending claims, i.e., claims 1 through 23, in a form that is believed allowable, and, in any event, in a better form for appeal. It is believed that examination of the pending claims as amended, which are consistent with the previous record herein, will not place any substantial burden on the Examiner. In any case, a Request for Continued Examination is being submitted herewith.

In the Office Action, the Examiner rejected claims 1-3, 21 and 22 under 35 U.S.C. §102(e) as being anticipated by Devi (United States Patent Application Publication No. 2003/0147400; hereinafter Devi). The Examiner rejected claims 4 and 6 under 35 U.S.C. §103(a) as being unpatentable over Devi, in view of Aukia et al. (United States Patent Number 6,594,268; hereinafter Aukia). The Examiner rejected claims 5, 7-9, 13 and 16 under 35 U.S.C. §103(a) as being unpatentable over Devi and in view of Szviovtszki et al. (United States Patent Number 6,956,821; hereinafter Szviovtszki). The Examiner further rejected claim 23 under 35 U.S.C. §103(a) as being unpatentable over Szviovtszki and in view of Shabtay et al. (United States Patent Number 6,895,441; hereinafter Shabtay). The Examiner indicated that claims 10-12, 14, 15, and 17-20 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

### Independent Claims 1, 21 and 22

Independent claims 1, 21, and 22 were rejected under 35 U.S.C. §102(e) as being anticipated by Devi. Regarding claim 1, the Examiner asserts that Devi discloses determining, in response to a request, whether any path of a plurality of predetermined paths meets at least one requirement corresponding to the request, wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network using at least traffic demand estimates and network topology information and by performing routing for the substantially maximized carried demand (FIGS. 1 and 2; paragraphs [0004]-[0005], [0014],

[0026], and [0028]-[0029]).

Applicants note that independent claims 1, 21, and 22 have been amended to require wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network *using at least traffic demand estimates, network topology information, and a current load measurement, wherein said current load measurement is measured at a source node*, and by performing routing for the substantially maximized carried demand. Support for this amendment can be found on page 17, line 22, to page 18, line 14, of the originally filed disclosure. Applicants note that Devi does *not* disclose or suggest determining, in response to a request, whether any path of a plurality of predetermined paths meets at least one requirement corresponding to the request, wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network *using at least traffic demand estimates, network topology information, and a current load measurement, wherein said current load measurement is measured at a source node*, and by performing routing for the substantially maximized carried demand.

Thus, Devi does not disclose or suggest determining, in response to a request, whether any path of a plurality of predetermined paths meets at least one requirement corresponding to the request, wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network using at least traffic demand estimates, network topology information, and a current load measurement, wherein said current load measurement is measured at a source node, and by performing routing for the substantially maximized carried demand, as required by independent claims 1, 21, and 22, as amended.

#### Independent Claim 23

Independent claim 23 was rejected under 35 U.S.C. §103(a) as being unpatentable over Szviatovszki and in view of Shabtay. Regarding claim 23, the Examiner acknowledges Szviatovszki does not disclose, but asserts that Shabtay discloses if a length of the second shortest path is equivalent to a length of the first shortest path, attempting to create a connection on the second shortest path (col. 4, lines 14-21, and col. 5, lines 12-22); and if a length of the second shortest path is not equivalent to a length of the first shortest path, performing the following steps (col. 5, lines 18-19): pruning edges not having a second available bandwidth from the first pruned network, thereby creating a second pruned network; computing a third

shortest path between the source node and destination node using the second pruned network; and attempting to create a connection on the third shortest path (col. 5, lines 19-22). In the Response to Arguments section of the final Office Action, the Examiner asserts that “the length information is provided by OSPF protocol, and it is combined by bandwidth availability information of the links to utilize rerouting mechanism.”

As the Examiner acknowledges, Szviatovszki does *not* disclose or suggest length information. Contrary to the Examiner’s assertion, however, Applicants could also find *no* disclosure or suggestion of *length information* in Shabtay. Applicants also find no disclosure or suggestion that the length information is provided by the OSPF protocol, or that it is combined by bandwidth availability information of the links to utilize rerouting mechanism.

Thus, Szviatovszki and Shabtay, alone or in combination, do not disclose or suggest a length of a second shortest path, as required by independent claim 23.

#### Additional Cited References

Aukia was also cited by the Examiner for its disclosure of determining the traffic demand estimates based at least in part on previously measured traffic demands or historical traffic demands. Aukia does *not*, however, address the subject of determining, in response to a request, whether any path of a plurality of predetermined paths meets at least one requirement corresponding to the request, wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network using at least traffic demand estimates and does *not* address the subject of the length of a shortest path.

Thus, Aukia does not disclose or suggest determining, in response to a request, whether any path of a plurality of predetermined paths meets at least one requirement corresponding to the request, wherein the plurality of predetermined paths are determined by substantially maximizing a carried demand on a network using at least traffic demand estimates, network topology information, and a current load measurement, wherein said current load measurement is measured at a source node, and by performing routing for the substantially maximized carried demand, as required by independent claims 1, 21, and 22, as amended, and does not disclose or suggest a length of a second shortest path, as required by independent claim 23.

Dependent Claims 2-22

Dependent claims 2 and 3 were rejected under 35 U.S.C. §102(e) as being anticipated by Devi, claims 4 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Devi, in view of Aukia, and claims 5, 7-9, 13 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Devi and in view of Szviatovszki.

Claims 2-22 are dependent on independent claim 1 and are therefore patentably distinguished over Devi, Aukia, Shabtay, and Szviatovszki, alone or in combination, because of their dependency from amended independent claim 1 for the reasons set forth above, as well as other elements these claims add in combination to their base claim. The Examiner has already indicated that claims 10-12, 14, 15, and 17-20 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Conclusion

All of the pending claims, i.e., claims 1-23, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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